

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK SMITH,

Plaintiff,

v.

MR. DOYLE,

Defendant.

CIVIL ACTION NO. 15-10090

DISTRICT JUDGE ROBERT H. CLELAND

MAGISTRATE JUDGE R. STEVEN WHALEN

**ORDER GRANTING PLAINTIFF’S MOTION FOR LEAVE TO FILE A
SUPPLEMENTAL COMPLAINT [Dock. #8] AND DENYING PLAINTIFF’S
MOTION FOR APPOINTMENT OF COUNSEL [Dock. #10]**

Plaintiff, a Michigan Department of Corrections (“MDOC”) prisoner, filed suit on January 5, 2015, alleging violations of his civil rights under 42 U.S.C. 1983. On March 12, 2015, he sought leave to file a supplemental complaint pursuant to Fed. R. Civ. P. 15(a)(2). Rule 15(a)(2) provides that “[t]he court should freely give leave when justice so requires.” The sole current Defendant in this case has not yet been served. Further, the proposed amended complaint is not futile. Therefore, the Court will grant Plaintiff’s motion.

In contrast, Plaintiff’s motion for appointment of counsel will be denied. Unlike criminal cases, there is no constitutional or statutory right to the appointment of counsel in civil cases. Rather, the Court requests members of the bar to assist in appropriate cases. In *Lavado v. Keohane*, 992 F.2d 601, 605-606 (6th Cir. 1993), the Sixth Circuit noted that “[a]ppointment of counsel in a civil case is not a constitutional right. It is a privilege that is

justified only by exceptional circumstances.” (Internal quotations and citations omitted).

It is the practice of this Court to defer any attempt to obtain counsel for *pro se* civil rights Plaintiffs until after motions to dismiss or motions for summary judgment have been denied. As of now, Defendant has not yet been served. At this stage of the proceedings, Plaintiff’s request for counsel is premature.

Accordingly, Plaintiff’s Motion for Leave to File a Supplemental Complaint [Dock. #8] is GRANTED. Plaintiff’s Motion to Appoint Counsel [Dock. #10] is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: December 28, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on December 28, 2015, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla
Case Manager